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FISCAL IMPACT STATEMENT

LS 6699

BILL NUMBER: HB 1098

NOTE PREPARED: Jan 26, 2006

BILL AMENDED: Jan 23, 2006

SUBJECT: Massage Therapy Regulation.

FIRST AUTHOR: Rep. Frizzell

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill establishes the State Board of Massage Therapy to license massage therapists and specifies licensure requirements. It establishes guidelines for the licensing by endorsement of a massage therapist who holds a license in another state or country. The bill also establishes penalties for the unauthorized practice of massage therapy.

Effective Date: July 1, 2006.

Explanation of State Expenditures: (Revised) This bill creates the five-member State Board of Massage Therapy which would establish licensure requirements for massage therapists. The Professional Licensing Agency (PLA) provides staff support for the health professions boards. Revenues from licensure are received by the state General Fund, and expenditures are appropriated to PLA with augmentation from the state General Fund. Because PLA uses the same resources to support different boards and committees, it breaks down its expenditures by function rather than by board or committee. For this reason, the individual cost of any board or committee is indeterminable.

According to PLA, the common operating costs among the licensing boards include: board member per diem, travel expenses, printing, postage, supplies, telephone charges, and personnel. Additional staff, such as a PAT II and Secretary III position, may be required to provide support for a new board. Start-up costs for a new board may be greater than the annual operating costs once it is established. Depending on revenue balances from licenses issued by all of PLA's boards, PLA could potentially absorb a portion of the operating expenses not covered by the new board's licensing revenue.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of January 23, 2006, the PLA had 17 vacancies with total salary valued at \$356,586. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The bill requires the Board to adopt a licensing exam or approve an examination other than the National Certification Exam for Therapeutic Massage and Bodywork to provide to an applicant for licensure as a massage therapist. The Board could incur additional expenses if it chose to develop an examination.

Explanation of State Revenues: (Revised) This bill establishes a licensure program for massage therapists and requires the Board to establish reasonable fees for examinations, license applications, renewal of licenses, and other services. According to current statute, fees set by an occupational or professional licensing board cannot be less than the amount required to pay all of its costs, direct and indirect.

The American Massage Therapy Association and the Association of Body and Massage Professionals have a combined total of approximately 2,300 massage therapists as members in Indiana, and approximately 500 massage therapists in Indiana are currently certified by the National Certification Board for Therapeutic Massage and Bodywork. All massage therapists would be required to apply for a license in order to continue practicing in Indiana. Although the bill includes a grandfather clause, all applicants are required to pay the licensing fees. A license may also be issued by endorsement when certain requirements are met. All revenue collected from fees from the licensure of massage therapists would be collected and accounted for by the PLA and deposited in the state General Fund.

The bill allows the Board to issue a license to any applicant who enrolled in, before March 1, 2006, (and completes before January 1, 2007) a 500-hour massage therapy school or program that was in good standing with any state, regional, or national government that regulates massage therapy or programs. Massage therapists attending or finishing an out-of-state recognized school or program within the above time limits would be able to more easily receive a license to practice massage therapy in Indiana.

Penalty Provision - Violations of the licensure provisions would constitute a Class C misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C misdemeanor is \$500. However, any additional revenue would likely be small.

Explanation of Local Expenditures: *Penalty Provision* - A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: The bill repeals the fee involved for the required fingerprinting of massage therapists. Local law enforcement units were involved with fingerprinting and fee collection. Localities would lose revenue as a result of the removal of the fee, but would have a corresponding reduction in expenditures. This bill also provides that state law relating to massage therapy supercedes an ordinance or regulation adopted by a municipality or county related to the licensing or registration of massage therapists. However, state law does not affect local regulation relating to occupational license fees adopted by a municipality or county pertaining to massage therapists.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Professional Licensing Agency.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: IC 25-1-8-2; Barbra Lis, Indiana Chapter of the American Massage Therapy Association, www.amtaindiana.org.

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